

conditions listed in one of the following criteria categories exists.

(1) *Program criteria.* When the program is:

(i) Intended or appears to endorse, benefit selectively, or favor any private individual, group corporation, religion, sect, ideological movement, political organization candidate, or commercial venture.

(ii) For the purpose of solicitation of votes in a political election.

(iii) A commercially oriented program, such as a Christmas parade, a motion picture premiere, a fashion show, a beauty pageant, or any other event or activity conducted to stimulate sales or increase the flow of business traffic.

(iv) For the purpose of raising funds for causes other than those specified in paragraph (a)(1)(v) of this section.

(v) One in which public confrontation is planned or likely or where the real or apparent purpose is to stage controversy.

(2) *Sponsor criteria.* The sponsor or sponsoring organizations specifically excludes any person from its membership for reasons of race, creed, color, or national origin.

(i) A commercial enterprise (except as specified in paragraph (a)(2)(iv) of this section).

(ii) A religious group (except for a school, as specified in paragraph (a)(2)(v) of this section, sect, or partisan political organization, or ideological movement).

(iii) An organization whose constitution, bylaws, membership qualifications, or ritual is privately held and not available to the general public (e.g., many fraternal organizations).

(3) *Site criteria.* When:

(i) Admission, seating, and any other accommodation or facility connected with a public program are barred to any person because of race, creed, color, national origin, or sex.

(ii) The location of the program is a private, commercial, or religious facility, a shopping mall or center, or a nonpublic school, college, or university (except as specified in paragraph (a)(3) of this section).

(4) *Support criteria.* When DoD support:

(i) Has been determined, by a finding of fact, to interfere with the customary or regular employment of non-DoD persons in their art, trade, or profession.

(ii) Is or could be considered to be the primary or major attraction for which admission is charged, except for:

(A) Athletic events of the Military Service academies;

(B) Performances by aerial demonstration teams;

(C) Concerts by the U.S. Army Band, the U.S. Army Field Band, the U.S. Navy Band, the U.S. Marine Band and the U.S. Air Force Band while on authorized tours.

(iii) Consists wholly or in part of resources, facilities, or services which are otherwise reasonably available from commercial sources.

(iv) Involves the use of military personnel (including members of Guard/Reserve components and ROTC in uniform) outside military reservations as ushers, guards, parking lot attendants, runners, messengers, baggage handlers, for crowd control, or in any other inappropriate capacity.

(v) Interferes with military needs or operational requirements.

#### § 238.7 Funding.

(a) The cost of DoD support of community relations programs authorized in § 238.7(b) shall be the responsibility of the DoD Component(s) involved. Funding requirements for these purposes shall be kept to the minimum necessary to accomplish DoD objectives.

(b) DoD Components shall absorb the costs of supporting those community relations programs that are specifically authorized by public law, executive order, or the Secretary of Defense, and the following types of programs when they are in the primary interest of the Department of Defense:

(1) Official Federal Government functions.

(2) DoD or civic-sponsored observances of United States or host country national holidays.

(3) Official civil ceremonies and functions.

(4) Speaking engagements.

(5) Events considered to be in the national interest or in the professional, scientific, or technical interests of a

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DoD Component or element, when approved by the Assistant Secretary of Defense (Public Affairs) or the Commander of an overseas Unified or Specified Command, as appropriate.

(6) Direct support of recruiting and personnel procurement activity, when the cost of such support is charged to recruiting or personnel procurement programs funds.

(c) DoD support of community relations programs that are not authorized in paragraph (b) of this section shall be at no additional cost to the Government.

(d) To adhere to congressional funding limitations, due care must be exercised in the identification of costs of community relations programs. Programming, budgeting, and financing policies are set forth in part 237 of this title. In general, for purposes of the limitations, the incremental cost of any resource incurred solely for community relations purposes must be identified as a public affairs cost; and costs incurred by a DoD Component in connection with its support of a community relations program, which would not be incurred but for their public affairs aspects, must be identified as public affairs costs. Effective management of a community relations program may require full costing (total direct and indirect costs) of the use of resources when their use benefits or is caused by the program. This information shall be provided to management officials and the OASD(PA) on an “as required” basis.

(e) When routine training flights are used as opportune airlift to transport military personnel, no reimbursement to the providing Component is required. When Military Airlift Command industrially funded transportation facilities are used, the industrial fund must be reimbursed, in accordance with DoD Directive 7410.4,<sup>1</sup> “Regulations Governing Industrial Fund Operations,” September 25, 1972.

### § 238.8 Responsibilities and authorities.

(a) Requests for DoD support of community relations programs shall, ex-

cept as otherwise specified in this instruction, be evaluated and approved or disapproved at the lowest practicable echelon or command (see § 238.5(a)(2)).

(b) The *Assistant Secretary of Defense (Public Affairs)* is the sole authority for granting any exception to the policy contained in part 237 of this title and in this part.

(1) The ASD(PA) is the sole authority for approving all DoD support of community relations programs in the National Capital area (see § 238.11 and § 238.13), except speaking engagements (see § 238.12), and for DoD support of the following programs outside that area:

(2) National and international programs, including national conventions and meetings (except those programs taking place in overseas areas which are solely of internal concern to a Unified or Specified Commander); see §§ 238.11, 13, 14, 15, 16, and 18.

(3) Programs outside the 50 United States which are not within a Unified or Specified Command’s area of responsibility.

(4) Programs where the officially designated flight and parachute demonstration teams (Golden Knights, Blue Angels, Thunderbirds) perform, in accordance with § 238.10.

(5) Programs held on a military installation involving an aerial review of more than one Military Service, and programs involving any aerial review, flyover, or aircraft demonstration held elsewhere within the United States or as outlined in paragraph (b)(2) of this section (except for flyovers for civic-sponsored observances of and official ceremonies for Armed Forces Day, Memorial Day, Independence Day and Veterans Day, authorized by the Secretaries of the Military Departments), in accordance with § 238.10.

(6) Programs that require acting as the sole point of official contact within the Department of Defense for liaison between the Department of Defense and the headquarters and Washington offices of national organizations and other national non-Government groups, except for those organizations representing a specific interest of a single Military Service, e.g., Association of the U.S. Army, Air Force Association, Navy League, Marine Corps

<sup>1</sup> See footnote 1 to § 238.4(d).